

REMARKS

Applicant hereby requests further examination of the subject application in view of the amendments and remarks presented herein. Applicant has canceled claims 1-9 and has presented new claim 10, which contains further limitations not contained in any of the canceled claims. The further limitations are supported throughout the specification, and particularly in Fig. 2 and the paragraphs beginning on page 5, line 16 to page 6, line 30.

In a first rejection, Examiner rejected claims 1-3 and 5-7 under 35 USC 103(a) as unpatentable over Greenbaum, et al. (US 2002/0102629) (Greenbaum) in view of Brigante (US 4,347,133). Applicant respectfully traverses the rejection in view of the amendment made hereinabove. Applicant has canceled claims 1-9 and incorporated the limitations of claim 4 into clause “c” of new claim 10. Since claim 4 was not subject to this rejection, applicant submits that incorporation of the limitations of claim 4 into claim 1 renders the rejection overcome. Applicant respectfully contends that the first rejection is overcome, and respectfully requests withdrawal of the first rejection.

In a second rejection, Examiner rejected claim 4 under 35 USC 103(a) as unpatentable over Greenbaum in view of Brigante, and further in view of Kolber (US 4,942,303). Applicant respectfully traverses the rejection in view of the amendment made hereinabove. Applicant has canceled claims 1-9 and incorporated the limitations of claim 4 into new claim 10. Therefore, applicant will respond to the rejection as it pertains to amended claim 10.

Applicant has presented a new claim that contains a combination of elements and relationships among those elements that are neither taught nor suggested by the cited art. In particular, applicant's device as now claimed comprises two reservoirs connected in series. An electronics package controls the flow of consecutive water samples through the first reservoir so that less than 10% of a newest water sample is mixed with water from a previous sample in order to increase sensitivity of fluorescence analysis while decreasing total time required to perform fluorescence analysis. The second reservoir further delays the analysis of a water sample for a sufficient time to allow completion of a dark adaptation cycle of photosynthetic organisms

contained within the water sample. Applicant respectfully contends that the combination of Greenbaum, Brigante, and Kolber do not teach or even suggest such a limitation to a person having ordinary skill in the art. Applicant therefore respectfully contends that the second rejection is overcome, and respectfully requests withdrawal of the second rejection.

In a third rejection, Examiner rejected claims 8 and 9 under 35 USC 103(a) as unpatentable over Greenbaum in view of Kolber. Applicant has canceled claims 8 and 9, and the third rejection is rendered moot. Applicant respectfully requests withdrawal of the third rejection.

Applicants earnestly solicit allowance of new claim 10 and the issue of U.S. letters patent therefor. Applicant has made every effort to present claims which clearly distinguish over the cited art, and it is believed that all pending claims are now in condition for allowance. However, applicant requests that the Examiner call the undersigned (direct line 865-574-4178) if anything further is required by the Examiner prior to issuance of a Notice of Allowance for all claims.

Respectfully Submitted,

/Joseph A. Marasco/

Joseph A. Marasco
Patent Agent of Record
Reg. No. 32,798
UT-Battelle, LLC
P.O. Box 2008
Oak Ridge, TN 37831-6258
865-574-4178